



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

JUN 12 2003



Mr. Charles Lundstrom, Director  
Water and Waste Management Division  
New Mexico Environment Department  
Harold Runnels Building  
1190 St Francis Drive  
Santa Fe, NM 87505



Dear Mr. Lundstrom:

Following up on our telephone discussion of June 11<sup>th</sup>, the purpose of this letter is to clarify EPA's position regarding the Department of Energy's request for modification to WIPP's RCRA permit to remove the prohibition against PCBs. Region 6 approved the TSCA application to dispose PCB contaminated TRU waste at the WIPP on May 15, 2003. The TSCA approval is a distinct and separate regulatory action from the RCRA permit and does not supercede conditions within the existing RCRA permit. The State of New Mexico will need to modify/remove the PCB disposal prohibition contained within the State's RCRA permit before WIPP can accept and dispose of PCB contaminated TRU material.

Region 6 recognizes that the State of New Mexico is fully authorized to implement the RCRA program. The State of New Mexico has adequately incorporated the Federal requirements at 40 CFR 270.42 Appendix I (definition of modification classifications) through the Hazardous Waste Management Regulations 20.4.1.900 NMAC. It is the responsibility of the New Mexico Environment Department to determine the most appropriate permit modification classification based on these regulations and State policy guidance.

As you are well aware, following a thorough review and analysis, we determined that the WIPP facility met TSCA conditions for PCB disposal. Although we believe this to be a safe and secure disposal facility, Federal authorization for PCB disposal, alone, is insufficient to allow WIPP to accept PCB contaminated material due to the prohibition for such in the State's RCRA permit. We encourage the State to expedite the permit modification process and offer our technical services as needed.



Thank you for the opportunity to clarify this process. Should you have any further questions, please contact me at (214) 665-8179 or Bruce Jones, Assistant Regional Counsel at (214) 665-3184.

Sincerely,



Stephen A. Gilrein, P.E.  
Associate Director for RCRA  
Multi-Media Planning  
and Permitting Division

cc: Ines Triay (CBFO)  
James Bearzi (NMED)

